

REMARKS

Amendments

Claims 1-12 are amended to use language in accordance with conventional US practice. Also, claim 1 is amended to provide express antecedent basis for the primary water absorbent preparation recited in claim 3. Claim 5 is amended to depend from claim 4, rather than claim 1. Claim 10 is amended to expressly specify that it is the micro-organisms that are rendered substantially dry. See, e.g., page 16, lines 9-15. Kit claim 13 is amended to further recite at least one container of buffer solution or a solution incorporating protective substances for optimizing the preservation procedure. See, e.g., page 6, lines 16-20. New claims 14-22 are directed to further aspects of the claimed invention and are supported throughout the disclosure.

Election

In response to the Restriction requirement, applicants hereby elect Group I, claims 1-9, drawn to a resalable strip. New claims 14-22 also read on the elected invention. In addition, it is respectfully submitted that kit claim 13 should be grouped with the device claims of Group I, rather than the process claims of Group II. In any event, the Restriction Requirement is, however, respectfully traversed.

The instant application is a US national phase application of PCT/EP2003/013205, and the Rules for Restriction are governed by PCT Rules 13.1 and 13.2 and Annex B of the PCT Guidelines. Annex B was superseded by the PCT International Search and Preliminary Examination Guidelines issued in 2004. However, the ISPE guidelines on unity of invention are very similar to the prior Annex B.

Annex B, section (d) states that there are three particular situations **for which the method of determining unity of invention under Rule 13.2 is explained in further detail.** These three situations are described in section.

Annex B, section (e) (ISPE 10.12) states that an independent claim for a given process (such as applicants' claim 10) and an independent claim for an apparatus specially designed for carrying out the process is a permissible combination of claims. **Specifically, the section states that such a combination will be construed as permissible under PCT**

MERCK-3006

Rule 13.2, i.e., such a combination does not lack unity of invention. Therefore, in view of sections (d) and (e) of Annex B describing permissible combinations under Rule 13.2, the assertion that there is no special technical feature between Groups I and II and between Groups I and II is incorrect.

Thus, it is respectfully submitted that the Restriction fails to set for the any reason as to why Group II is not being examined with elected Group I. Applicants respectfully request that claims 10-13 be examined together with the claims of elected Group I.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/Brion P. Heaney/

Brion P. Heaney, Reg. No. 32,542
Attorney for Applicants

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza 1
2200 Clarendon Boulevard, Suite 1400
Arlington, VA 22201
Direct Dial: 703-812-5308
Facsimile: 703-243-6410
Attorney Docket No.: MERCK-3006

Date: June 25, 2008

MERCK-3006